IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.20 OF 2005

Hanamant G. Jadhav ... Petitioner

v/s

Union of India and anr. ... Respondents

Mr D.D. Madon i/b Mr U.S. Samudrala for Petitioner.

Mr T.J. Pandian for Respondent No.1.

CORAM : D.K.DESHMUKH J.

DATE : 8TH FEBRUARY 2005

P.C.: -

1. The learned counsel appearing for respondent No.1 - Union of India states that the Arbitral Tribunal, in terms of the arbitral agreement between the parties, shall be constituted within a period of six weeks from today. The statement is accepted. In view of this statement, the petition is disposed off in following terms :-

1) After constitution of Arbitral Tribunal, the petitioner shall be at liberty to apply to the Arbitral Tribunal for the same reliefs for which the present application has been made. If such application is made, the Arbitral Tribunal shall decide that application on its own merits in accordance with law without being influenced by the fact that the payment has already been made by the Bank.

2) It is directed that in case the Bank makes payment to the respondent No.1, that payment would be subject to the

orders that may be passed by the Arbitral Tribunal in an application which may be moved by the petitioner before the Arbitral Tribunal and it is clearly understood by the parties that the Arbitral Tribunal shall be free to prescribe terms and conditions, including payment of interest, in relation to the amount which may be paid by the Bank to the respondent No.1 under the bank guarantee.

3) It is directed that in case the officer of the respondent No.1 does not constitute the Arbitral Tribunal within a period of six weeks as stated above and in case the respondent No.1 receives payment from the Bank within that period, the respondent No.1 shall deposit the amount received from the Bank in this Court within two weeks from the date of expiry of six weeks, with due intimation to the petitioner. In that event, the petitioner shall be at liberty to apply to the Court for further orders.

4) The amount deposited by the respondent

No.1 shall on deposit be immediately invested by the Prothonotary and Senior Master of this Court in a nationalised Bank in fixed deposit. The amount shall be held subject to further orders that this Court may pass on application made by the parties or subject to the award that may be passed by the Arbitral Tribunal.

. Petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.